IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5568 of 2007()

CRIME NO.664/07 OF KODUNGALLURE POLICE STATION

PETITIONER/1ST ACCUSED

PRIYAN, S/O.CHANDRAN,
NADUMANI HOUSE, EDAVILANGE, KODUNGALLUR.

BY ADV. SRI.P.K.ANIL

RESPONDENTS: COMPLAINANT & STATE

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1. THE SUB INSPECTOR OF POLICE,
KODUNGALLUR POLICE STATION.

2. STATE REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5568 OF 2007

Dated this the 17th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Altogether, there are two accused persons. The accused face allegations under Secs.308 and 324 of the IPC. Political animosity is the alleged motive. The alleged incident took place on 8/8/07 at 11.00 hours. F.I.R. was registered later on the same day. The petitioner is named in the F.I.R. The crux of the allegations is that on account of political animosity, with a weapon - “Idikatta”, the victim was attacked by the accused persons. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Merely because of political loyalties, false and frivolous allegations are raised against the

petitioner. The petitioner may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The victim has suffered injuries. Allegations have been raised very promptly against the petitioner. The petitioner is named in the F.I.R. The petitioner has criminal antecedents also. The mere fact that he allegedly a political activist has engaged himself in the violent activities is no reason to invoke the extraordinary discretion under Sec.438 of the Cr.P.C. The petitioner may be directed to resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. I find no features in this case which would justify or warrant the invocation of the discretion under Sec.438 of the Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the

learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge